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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,581	04/15/1999	ANSGAR DIRKMANN	P99.0498	2526

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06/30/2003

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EXAMINER

MEHRA, INDER P

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/284,581

Applicant(s)

DIRKMANN ET AL.

Examiner

Inder P Mehra

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 30 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. This is in response to an amendment dated 4/14/03 which has been fully considered and made of record. Based on this amendment, claims 6, 10 and 15 have been amended. Claims 6-15 are now pending. Being necessitated by amendment, this action has been made Final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sistanizadeh et al** (US Patent No. 6,452,925, hereinafter, Sistanizadeh) in view of **Tao J et al** (Internet Access via Baseband and Broadband ISDN Gateways, published 12/4/94 and part of PCT EP/97/05498 dated 10/07/97), hereinafter, Tao, and further in view of **Waagner** (US Patent No. 5,917,624).

Regarding claims 6, 10 and 11, Sistanizadeh ('925) discloses, in reference to figs. 3-6, network management allowing manager to monitor and control routers and hosts in the network in the network (a method for controlling connections in a communication network), refer to col. 14 lines 40-41, col. 5 lines 32-67 through col. 6 lines 1-5; comprising the steps of:

- set up a session and commences the steps to establish a session (setting up a signaling connection---based on service connection request by the subscriber), refer to col. 6 lines 46-49;

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- the user starts an application and PC requests for a certain server--- (setting up a payload connection) and PC requests and receives information (data traffic), refer to col. 13 lines 5-10;
- terminate after data transmission and prior to the expiration of lease time; and DHCPRELEASE is performed (clearing down the payload connection after data transmission), refer to col. 14 lines 18-20; user terminates the work and the PC performs a DHCPRELEASE and the user releases the IP ADDRESS AND
- IP associated with the domain name (clearing down the payload connection after data transmission), refer to col. 13 lines 29-32.
- User desires to use different Internet service provider, triggers a DNSUPDATE and commences a new process-----without a new re-booting (maintaining a first connection-----and intermittently setting up a second connection---- transmitting data -----subscriber and the service provider, wherein the first and second connections are associated, as recited in claim 11), refer to col. 13 lines 18-32.

Sistanizadeh does not disclose expressly the limitation, “wherein the signing connection and payload connection are maintained simultaneously during transmission”;

Tao discloses, “ add-on ISDN adapters are used so that the software running in computer can anticipate both connection management through D-channel, and data communications through one or two B-channels (**“wherein the signing connection and payload connection are maintained *simultaneously* during transmission”**, refer to page 486, last sub-paragraph of paragraph 1.1;

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Wagner also discloses, “wherein the signaling connection and payload connection are maintained simultaneously during transmission”, refer to col. 2 lines 18-23;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the capability of both signaling connection and payload connection being maintained simultaneously during the data transmission, as taught by Tao and Wagner. The maintenance of both the connections (signaling and data communication) can be implemented by combining the system as taught by Tao and Wagner at the user network interface (UNI) to an Internet network. The suggestion/motivation to do so would have been to use D-channel packet switching capability for this kind of services and to send data over B-channel simultaneously.

Regarding claim 7, Sistanizadeh discloses “ADSL high speed data access”, refer to col. 6 lines 6; further, discloses “POTS voice switch” (service is at least at least one of a voice service or a data service), refer to col. 15 lines 63-64.

Regarding claims 8 and 14, Sistanizadeh discloses the user starts an application and PC requests for a certain server--- (setting up a payload connection); and PC requests and receives information (data traffic), refer to col. 13 lines 5-10; further, discloses billing may be based on occupancy which is the time the user is utilizing a network channel (charging a service ---for a time interval in which the signaling connection and the payload connection simultaneously exist), refer to col. 17 lines 15-16; further discloses charging the customer when the assigning of an IP address starts the clock, and tolling of the charge ceases when IP address is released

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(charging for service by the service provider for each time interval---, as recited by claim 14) ,
refer to col. 11 lines 23-26.

Regarding claims 9 and 15, Sistanizadeh discloses, if the user desires to terminate prior to the termination of 100% time of the lease time, DHCPRELEASE request is performed from the bound condition to initialize to cancel the lease, refer to col. 14 lines 18-21; further discloses, in reference to fig. 9, bound stage persists (data transmission persists) as long as 87.5% of lease time has expired, refer to col. 14 lines 10; in the absence of acknowledgment to continue transmission, the pc is forced to go off line (clearing down the payload connection before the expiry of total lease time charged, as recited in claim 15), refer to col. 14 lines 3-12.

Regarding claim 12, Sistanizadeh discloses controlling and set up connections, refer to col. 14 lines 40-45, which are carried in control signals of D-channel, which runs at 64kbps of ISDN network, refer to col. 19 line 35;

Regarding claim 13, Sistanizadeh discloses B-channel for data transfer (second connection is a B-channel), refer to col. 19 lines 34-36.

Response to Arguments

4. Applicant's arguments with respect to claims 6-15 have been considered.

Applicant argues that Sistanizadeh does not disclose, "wherein the signing connection and payload connection are maintained simultaneously during transmission".

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In response it is stated that both Tao and Wagner disclose, "wherein the signing connection and payload connection are maintained simultaneously during transmission", as detailed in art rejection above, see paragraph 3 above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

5. Any enquiry concerning this communication should be directed to Inder Mehra whose telephone number is (703) 305-1985. The examiner can be normally reached on Monday through Friday from 8:30AM to 5:00 PM.

If attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Seema Rao , can be reached on (703) 308-5463. Any enquiry of a general nature of relating to the status

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of this application or processing should be directed to the group receptionist whose telephone number is (703) 305-4700.

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, DC. 20231

Or faxed to (703) 872-9314.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive,
Arlington, VA, sixth floor (Receptionist).

Inder Mehra
Inder Mehra 5/31/03

May 31, 2003

DM
DANGTON
PRIMARY EXAMINER